

“(b) GRANTS TO STATES.—

“(1) IN GENERAL.—From amounts appropriated under section 1002(f) for this subpart that are not reserved under subsection (a), the Secretary shall award grants for a fiscal year to State educational agencies that have applications approved under section 1723 to enable the State educational agencies to award subgrants to eligible local educational agencies for local authorized activities described in subsection (c)(2).

“(2) ALLOCATION.—From amounts appropriated for this subpart, the Secretary shall allocate to each State educational agency for a fiscal year an amount that bears the same ratio to the amount of funds appropriated under section 1002(f) for this subpart that are not reserved under subsection (a) as the number of students in average daily attendance served by eligible local educational agencies in the State bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

“(3) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—

“(A) NONPARTICIPATING STATE.—If a State educational agency elects not to participate in the program under this subpart or does not have an application approved under section 1723 a specially qualified agency in such State desiring a grant under this subpart shall submit an application under such section directly to the Secretary to receive an award under this subpart.

“(B) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—The Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under paragraph (2) directly to specially qualified agencies in the State.

“(c) LOCAL AWARDS.—

“(1) ELIGIBILITY.—A local educational agency shall be eligible to receive funds under this subpart if—

“(A) 20 percent or more of the children aged 5 to 17, inclusive, served by the local educational agency are from families with incomes below the poverty line; and

“(B) all of the schools served by the agency are designated with a school code of 6, 7, or 8 as determined by the Secretary of Education.

“(2) USES OF FUNDS.—Grant funds awarded to local educational agencies or made available to schools under this subpart shall be used for—

“(A) teacher recruitment and retention, including the use of signing bonuses and other financial incentives;

“(B) teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers;

“(C) educational technology, including software and hardware as described in part B of title V;

“(D) parental involvement activities; or

“(E) programs to improve student academic achievement.

#### “SEC. 1722. STATE DISTRIBUTION OF FUNDS.

“(a) AWARD BASIS.—A State educational agency shall award grants to eligible local educational agencies—

“(1) on a competitive basis; or

“(2) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools (as appropriate) in the State, as determined by the State.

“(b) ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under this subpart may not use more than 5 percent of the amount of the grant for State administrative costs.

#### “SEC. 1723. APPLICATIONS.

“Each State educational agency and specially qualified agency desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the

Secretary may require. Such application shall include specific measurable goals and objectives relating to increased student academic achievement, decreased student dropout rates, or such other factors that the State educational agency or specially qualified agency may choose to measure.

#### “SEC. 1724. REPORTS.

“(a) STATE REPORTS.—Each State educational agency that receives a grant under this subpart shall provide an annual report to the Secretary. The report shall describe—

“(1) the method the State educational agency used to award grants to eligible local educational agencies and to provide assistance to schools under this subpart;

“(2) how local educational agencies and schools used funds provided under this subpart; and

“(3) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 1723.

“(b) SPECIALLY QUALIFIED AGENCY REPORT.—Each specially qualified agency that receives a grant under this subpart shall provide an annual report to the Secretary. Such report shall describe—

“(1) how such agency uses funds provided under this subpart; and

“(2) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 1723.

“(c) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the Committee on Education and the Workforce for the House of Representatives and the Committee on Health, Education, Labor, and Pensions for the Senate an annual report. The report shall describe—

“(1) the methods the State educational agency used to award grants to eligible local educational agencies and to provide assistance to schools under this subpart;

“(2) how eligible local educational agencies and schools used funds provided under this subpart; and

“(3) progress made in meeting specific measurable educational goals and objectives.

#### “SEC. 1725. PERFORMANCE REVIEW.

“Three years after a State educational agency or specially qualified agency receives funds under this part, the Secretary shall review the progress of such agency toward achieving the goals and objectives included in its application, to determine whether the agency has made progress toward meeting such goals and objectives. To review the performance of each agency, the Secretary shall—

“(1) review the use of funds of such agency under section 1721(c)(2); and

“(2) deny the provision of additional funds in subsequent fiscal years to an agency only if the Secretary determines, after notice and an opportunity for a hearing, that the agency's use of funds has been inadequate to justify continuation of such funding.

#### “SEC. 1726. DEFINITIONS.

“In this subpart—

“(1) The term ‘poverty line’ means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

“(2) The term ‘specially qualified agency’ means an eligible local educational agency, located in a State that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under section 1721(b)(3)(A).

#### “Subpart 3—General Provisions

#### “SEC. 1731. DEFINITION.

“In this part, the term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.”.

## PART H—GENERAL PROVISIONS OF TITLE I

### SEC. 181. GENERAL PROVISIONS.

Title I is amended further by adding at the end the following:

#### “PART H—GENERAL PROVISIONS

##### “SEC. 1801. FEDERAL REGULATIONS.

“(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are necessary to ensure reasonable compliance with this title.

“(b) NEGOTIATED RULEMAKING PROCESS.—

“(1) IN GENERAL.—Prior to publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, paraprofessionals, and members of local boards of education involved with the implementation and operation of programs under this title.

“(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendation may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

“(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and prior to publishing proposed regulations, the Secretary shall—

“(A) establish a negotiated rulemaking process on a minimum of three key issues, including—

“(i) accountability;

“(ii) implementation of assessments; and

“(iii) use of paraprofessionals;

“(B) select individuals to participate in such process from among individuals or groups which provided advice and recommendations, including representation from all geographic regions of the United States; and

“(C) prepare a draft of proposed regulations that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days prior to the first meeting under such process.

“(4) PROCESS.—Such process—

“(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than 1 year after the date of the enactment of the No Child Left Behind Act of 2001; and

“(B) shall not be subject to the Federal Advisory Committee Act but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

“(5) EMERGENCY SITUATION.—In an emergency situation in which regulations to carry out this title must be issued within a very limited time to assist State and local educational agencies with the operation of a program under this title, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and prior to issuing final regulations, conduct regional meetings to review such proposed regulations.

“(c) LIMITATION.—Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

#### “SEC. 1802. AGREEMENTS AND RECORDS.

“(a) AGREEMENTS.—All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 1801 unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from and not adhere to such agreements.

“(b) RECORDS.—The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

#### “SEC. 1803. STATE ADMINISTRATION.

“(a) RULEMAKING.—